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THE SITUATION IN BOSNIA AND HERZEGOVINA

Report of the Secretary-General submitted pursuant to paragraph 12 of General Assembly resolution 47/121

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I. INTRODUCTION

1. In paragraph 12 of its resolution 47/121 of 18 December 1992, the General Assembly requested the Secretary-General to report to it by 18 January 1993 on the implementation of the resolution. The present report is submitted pursuant to that request. The attention of the Assembly is also drawn to the following reports issued since the adoption of the resolution:

(a) Further report of the Secretary-General, dated 21 December 1992, pursuant to Security Council resolution 787 (1992); 1/

(b) Report of the Secretary-General, dated 24 December 1992, on the International Conference on the Former Yugoslavia; 2/

(c) Report of the Secretary-General, dated 6 January 1993, on the activities of the International Conference on the Former Yugoslavia; 3/

(d) Report of the Secretary-General on the activities of the International Conference on the Former Yugoslavia, transmitted by a letter dated 13 January 1993 from the Secretary-General to the President of the Security Council; 4/

II. INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

2. In paragraph 11 of its resolution 47/121, the General Assembly requested the Co-Chairmen of the International Conference on the Former Yugoslavia to conclude expeditiously the work of the Working Group on the Republic of Bosnia and Herzegovina, to report on the reasons for the lack of progress and to submit proposals to overcome obstacles in the fulfilment of their mandate by 18 January 1993.

3. On 16 December 1992, the Co-Chairmen of the Steering Committee of the International Conference issues invitations to the three sides in Bosnia and Herzegovina to come to Geneva from 2 January 1993 onwards for talks on the following matters: "to discuss a sustainable cessation of hostilities; the demilitarization of Sarajevo; an agreement on a pull-back from the military front line in a way that reinforces and goes with the grain of an overall political settlement; ensuring free access of all citizens in and out of besieged cities and towns; and the free movement of humanitarian aid".

4. The proceedings of the Geneva talks are related in the reports of the Secretary-General thereon. 5/ As will be seen from those reports, the Co-Chairmen on 4 January 1993 put to the delegations in the peace talks a comprehensive package as the basis for a fair, just and lasting peace. They asked the delegations to sign an agreement relating to Bosnia and Herzegovina, which included a set of 10 Constitutional Principles and had annexed to it a map setting out the organization of the country into 10 provinces, and an agreement for peace in Bosnia and Herzegovina. The texts of these two

documents are annexed to the report of the Secretary-General of 6 January 1993. 6/ The Co-Chairmen explained that the two documents were inextricably linked and indicated that if, at any time, the three parties proposed agreed changes in either of the two documents or the provincial map, those changes would be incorporated.

5. The Co-Chairmen expressed the hope that all Bosnian sides would sign the two documents. However, if any party wished to think about the issues involved overnight, the Co-Chairmen would be ready to hold another plenary meeting on 5 January. Alternatively, if one or more parties wished to take the document back for consultations, a further plenary meeting would be called at Geneva on 10 January after a recess for the Orthodox Christmas.

6. One of the delegations accepted the documents and signed them immediately. The other two asked for further discussions on parts of the two documents and on the map proposed by the Co-Chairmen. Accordingly, it was decided that the Conference would recess until 10 January. The Co-Chairmen strongly urged that there be maximum military and political restraint in the intervening days. They also urged maximum restraint in public statements by participants.

7. In the report which the Secretary-General submitted to the Security Council on 6 January 1993, he stated:

> "21. The peace talks represented a historic step forward in the pursuit of peace in Bosnia and Herzegovina. Discussions took place on the three critical components for achieving peace in Bosnia and Herzegovina: the constitutional principles; the delimitation of provinces; and arrangements for implementing and monitoring a cessation of hostilities.
>
> "22. All the delegations participating in the talks pledged their cooperation with the Co-Chairmen in the search for peaceful solutions. The peace process has thus taken on a qualitatively new dimension. Henceforth it should be easier to establish clearly who is cooperating and who is not. I believe that the Security Council should let it be known clearly to all sides in Bosnia and Herzegovina that it is their duty to cooperate with the Co-Chairmen in bringing the conflict in Bosnia and Herzegovina to an end swiftly, and that there would be penalties for obstruction.
>
> "23. In the view of the ongoing talks in Geneva, it remains my sincere belief that, if the Council decides to adopt a resolution enforcing the ban on non-authorized flights over Bosnia and Herzegovina, it would be helpful if its implementation could be delayed for a reasonable period of time." 3/

8. At the resumption of the talks, on 10 January, the Co-Chairmen noted that they had placed before the delegations a comprehensive package which, they believed, represented a fair, just and lasting peace in Bosnia and Herzegovina. The package consisted of: a draft agreement relating to Bosnia

and Herzegovina which dealt with the delimitation of provinces, a constitutional framework, and humanitarian issues; and a draft agreement for peace in Bosnia and Herzegovina which dealt with observance and monitoring of the cessation of hostilities. 6/ They reminded the delegations that in presenting the package they had explained that its two agreements were inextricably linked and had indicated that if all three parties proposed mutually agreed changes, the changes would be incorporated. They noted that Mr. Mate Boban of the Bosnian Croat side had accepted and signed the two Agreements. President Alija Izetbegovic of Bosnia and Herzegovina had accepted the Constitutional Principles and the Agreement dealing with observance of a cessation of hostilities. He had not accepted, however, certain of the proposed provincial boundaries. Mr. Radovan Karadzic of the Bosnian Serb side, they further noted, had deferred expressing his views with respect to both of the documents until the resumption of the peace talks.

9. Following introductory statements by the Co-Chairmen, Mr. Boban reaffirmed his delegation's acceptance of the two Agreements, which he had already signed. Mr. Haris Silajdzic, Minister for Foreign Affairs of Bosnia and Herzegovina, stated that his delegation formally accepted the Constitutional Principles proposed by the Co-Chairmen. Mr. Karadzic stated that the two Agreements were acceptable as a basis for discussion, but that further talks were necessary to settle details with regard to the Constitutional Principles and the proposed delimitation of provinces. With regard to the former, he submitted a document containing eight suggested principles.

10. Following the statement of Mr. Karadzic, the Co-Chairmen invited the other delegations to make comments. Mr. Boban appealed to the other delegations to accept and sign the package, as his delegation had done. Mr. Silajdzic sought clarification whether the Bosnian Serb delegation was accepting or was rejecting the Co-Chairmen's Constitutional Principles. The Co-Chairmen replied that Mr. Karadzic had raised issues for discussion with regard to those principles.

11. The Co-Chairmen then proceeded to examine the 10 Constitutional Principles seriatim, comparing the text of those they had proposed to those submitted by Mr. Karadzic and seeking clarifications from him about the meaning of his suggestions. During the ensuing discussion, the Co-Chairmen reaffirmed the importance of the concept of "three constituent peoples".

12. With regard to "Principle 2", Mr. Martti Ahtisaari, Chairman of the Working Group on Bosnia and Herzegovina of the International Conference on the Former Yugoslavia, explained that it was not intended to restrict the role of the provinces on matters within their competence. In this regard, he read the following statement which, he stated, would form part of the records of the Conference explaining "Principle 2":

> "Only Bosnia and Herzegovina is to have international legal personality. Provinces cannot conclude formal international treaties. They would, however, be allowed to enter into administrative arrangements with each

other or with foreign States, as long as the subject of the agreement was one within the exclusive competence of the province concerned and did not infringe on the rights of any other province or of the central government. Thus, agreements could be concluded in relation to education, cultural institutions and programmes, radio and television, licensing of professions and trades, natural resources use, health care, provincial communications, and energy production, etc. Should any question arise between one or more of the provinces wishing to conclude arrangements with each other or with a foreign entity, and the central government or certain other provinces, as to the legality of such an arrangement, the question could be decided by the Constitutional Court at the request of any of the provinces or of the central government."

13. At the plenary meeting on 12 January, which was also attended by President Slobodan Milosevic (Serbia) and President Momir Bulatovic (Montenegro), the Co-Chairmen noted that on 10 January they had listened to comments on the Agreements placed before the sides and had provided clarifications on the Constitutional Principles. Those clarifications had been reflected in the minutes of the plenary meeting, which had been circulated and formed part of the record of the Conference.

14. They further noted that since the last plenary session they had carried out extensive consultations. In the light of those consultations they had combined the first and fourth principles into one, while retaining the identical wording. The 10 principles had accordingly become 9.

15. Mr. Karadzic stated that his delegation had suggested some changes to those documents which had not been incorporated. It therefore repeated the following suggestions:

(a) The insertion of a preambular reference in the draft Agreement on Bosnia and Herzegovina reaffirming the 1966 International Covenants on Human Rights.

(b) The Agreement to be signed should indicate that the map proposed by the Co-Chairmen was a basis for discussion.

(c) That the following provision contained in Working Paper ICFY/4 circulated by the Co-Chairmen on 2 January 1993 be reinstated in the Constitutional Principles: "The Constitution shall recognize the three major 'ethnic' groups as the constituent units of the State, as well as a group of 'others'."

If these three points were accommodated, his delegation would accept the documents proposed by the Co-Chairmen.

16. The Co-Chairmen stated that the preambular reference to the International Covenants could be considered when the documents were prepared for signature. If there were agreement on the principles, then the discussion would proceed with regard to the map until an accord was reached on it, so that the second change proposed by Mr. Karadzic would not be necessary.

17. Mr. Karadzic reiterated that the matter was of the greatest importance. If there were no compromise on the proposals his delegation had made, it could not accept the Constitutional Principles and would have to refer the matter to its "assembly" and possibly to a referendum.

18. President Cosic of the Federal Republic of Yugoslavia stated that in view of the fact that the Constitutional Principles guaranteed equal rights for all peoples, and taking into account that the Constitution itself would be worked out through consensus, the Constitutional Principles were acceptable to his delegation. He appealed for continued efforts to be made in the search for peace. President Milosevic stated that he shared the views of President Cosic and that the Constitutional Principles proposed by the Co-Chairmen were acceptable to him.

19. Mr. Silajdzic stated that even as the peace talks were going on, Sarajevo had been shelled and people were dying. People were also dying from hunger and cold. He stated that the most urgent issue was to place all heavy weapons under United Nations control. The Co-Chairmen pointed out that the issue of heavy weapons had already been addressed in the documents proposed by them, and that there seemed to have been general understanding on dealing with such weapons as part of the package.

20. Mr. Boban requested that the floor be given to Mr. Mile Akmadzic, Prime Minister of the Republic of Bosnia and Herzegovina. He warmly welcomed the peace efforts of the Co-Chairmen and expressed appreciation for their statements of condolences at the heinous murders of Hakija Turajlic and Josip Gogala. After stating that there was no consensus on the composition of the delegation of Bosnia and Herzegovina, which could only be decided by the people of the country, he reiterated that the Bosnian Croat delegation accepted the documents proposed by the Co-Chairmen. He appealed for efforts to continue to bring the parties closer together.

21. President Franjo Tudjman of Croatia expressed his surprise that, after all the efforts made, agreement had not been reached on the Constitutional Principles. He noted that that could mean not only continuation of the war, but also its expansion.

22. At the invitation of the Co-Chairmen, the Chairperson of the Humanitarian Issues Working Group, Mrs. Sadako Ogata, United Nations High Commissioner for Refugees, made an appeal to the delegations present for their cooperation on humanitarian activities in the former Yugoslavia, especially in Sarajevo. She particularly stressed the importance of free and unhindered access to people in need of humanitarian assistance; safe passage for humanitarian convoys; and safety and respect for all humanitarian relief staff.

23. Following these statements, the Co-Chairmen adjourned the meeting. They stated that they would have bilateral talks with the delegations. They requested that all delegations be available for consultations at short notice. If the Co-Chairmen felt that there was reason to convene another plenary meeting, they would do so. They again strongly appealed for military

and political restraint. They noted in this regard that the three sides in Bosnia and Herzegovina had agreed on 10 November 1992 to a cessation of hostilities throughout Bosnia and Herzegovina and had reconfirmed that agreement on 13 December.

24. Several hours after the conclusion of the plenary session Mr. Karadzic issued a statement that he had decided to agree with the proposed Constitutional Principles provided that his "assembly" confirmed this agreement within seven days.

25. In my letter of 13 January 1993 to the President of the Security Council conveying my report on the peace talks from 10 to 12 January, 4/ I noted that potentially important progress had been achieved, particularly on the question of constitutional arrangements for Bosnia and Herzegovina. I pointed out that, while the talks had been adjourned, the Co-Chairmen intended to continue discussions with the parties in the area in the coming days, while awaiting confirmation of Mr. Karadzic's agreement to the proposed Constitutional Principles. I expressed my earnest hope that members of the Security Council would continue to extend their strong support to the Co-Chairmen in their efforts to consolidate and build upon the progress achieved.

III. ACTIONS OF THE SECURITY COUNCIL

26. On 18 December 1992, the Security Council adopted resolution 798 (1992) in which it stated that it was appalled by reports of the massive, organized and systematic detention and rape of women, in particular Muslim women, in Bosnia and Herzegovina. It demanded that all the detention camps and, in particular, camps for women should be immediately closed; strongly condemned "these acts of unspeakable brutality"; and expressed its support for the initiative taken by the European Council to dispatch a delegation rapidly to investigate the facts. It requested the Secretary-General to provide such necessary means of support as were available to him in the area to enable the European Community delegation to have free and secure access to the places of detention. Furthermore, it requested the States members of the European Community to inform the Secretary-General of the work of the delegation. On 4 January 1993, I reported to the Security Council on assistance rendered to the first phase of the investigation. 7/

27. On 8 January 1993, the President of the Security Council made the following statement 8/ with respect to the first phase of the peace talks:

> "The Security Council fully supports the efforts of the Co-Chairmen of the Steering Committee of the International Conference on the Former Yugoslavia aimed at achieving an overall political settlement of the crisis through a complete cessation of hostilities and the establishment of a constitutional framework for the Republic of Bosnia and Herzegovina. In this connection, the Council reaffirms the need to respect fully the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina.

"The Council fully endorses the view of the Secretary-General described in his report (S/25050) that it is the duty of all the parties involved in the conflict in the Republic of Bosnia and Herzegovina, despite the recent provocation, to cooperate with the Co-Chairmen in bringing this conflict to an end swiftly.

"The Council appeals to all the parties involved to cooperate to the fullest with the peace efforts and warns any party which would oppose an overall political settlement against the consequences of such an attitude; lack of cooperation and non-compliance with its relevant resolutions will compel the Security Council to review the situation in an urgent and most serious manner, and to consider further necessary measures."

28. On 8 January 1993, the President of the Security Council also made the following statement 9/ with respect to the killing of the Deputy Prime Minister of Bosnia and Herzegovina:

"The Security Council is profoundly shocked to learn of the killing of Mr. Hakija Turajlic, Deputy Prime Minister for Economic Affairs of the Republic of Bosnia and Herzegovina, by Bosnian-Serb forces, while he was under the protection of the United Nations Protection Force (UNPROFOR).

"The Council strongly condemns this outrageous act of terrorism, which is a grave violation of international humanitarian law and a flagrant challenge to the authority and the inviolability of UNPROFOR, as well as to the serious efforts undertaken with the aim of achieving an overall political settlement of the crisis.

"The Council urges all parties and others concerned to exercise the utmost restraint and to refrain from taking any action which might further exacerbate the situation.

"The Council requests the Secretary-General to undertake a full investigation of the incident and to report to it without delay. Upon receipt of that report the Council will consider the matter forthwith.

"The members of the Security Council extend their sincere condolences to the bereaved family of Mr. Turajlic and to the people and the Government of the Republic of Bosnia and Herzegovina."

I have initiated an investigation into this incident by appointing a Special Commission of Inquiry jointly headed by Sahabzada Yaqub-Khan, former Minister for Foreign Affairs of Pakistan and current Special Representative of the Secretary-General for Western Sahara, and Lieutenant-General Lars-Eric Walgren, Commander of the United Nations Interim Force in Lebanon (UNIFIL).

IV. WITHDRAWAL OF FOREIGN FORCES

29. General Assembly resolution 47/121, in operative paragraphs 3 to 5, contained various provisions pertaining to the withdrawal of foreign forces from Bosnia and Herzegovina as well as to the cessation of hostilities.

30. Earlier, in its resolution 46/242 of 25 August 1992, the General Assembly demanded that those units of the Yugoslav People's Army (JNA) and elements of the Croatian Army in Bosnia and Herzegovina must either be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed with their weapons placed under effective international monitoring.

31. This provision of the resolution has still not been fulfilled. It has been reported earlier (A/47/747, para. 11) that although JNA had withdrawn completely from Bosnia and Herzegovina, former members of Bosnian Serb origin had been left behind with their equipment, and constituted the Bosnian Serb forces.

32. UNPROFOR has also confirmed that elements of the Croatian Army are deployed in certain parts of Bosnia and Herzegovina. Croatian Army representatives have stated that they are present only in those areas from which attacks have been made on Croatian territory, and that they would be removed as soon as these ceased and reliable guarantees had been given against any recommencement. In a letter dated 30 December 1992 addressed to the Secretary-General (A/47/849-S/25042), the Permanent Representative of Croatia to the United Nations emphasized that "if the units of the Croatian Army were to be temporarily present in the Republic of Bosnia and Herzegovina, they would be operating in accord with the authority of the Government of the Republic of Bosnia and Herzegovina".

33. Reports received by UNPROFOR indicate that supplies of a military nature continue to flow to the Bosnian Serb army from the Republic of Serbia. Other supplies appear to pass through Croatia to forces both of the Government of Bosnia and Herzegovina and the Bosnian Croats. There is some evidence of military personnel reaching the contending parties through both Serbia and Croatia from various countries.

V. CESSATION OF HOSTILITIES

34. By its resolution 787 (1992) of 16 November 1992, the Security Council called upon all parties in the Republic of Bosnia and Herzegovina to fulfil their commitments to put into effect an immediate cessation of hostilities and to negotiate in the Mixed Military Working Group, continuously and in uninterrupted session, to end the blockades of Sarajevo and other towns and to demilitarize them, with heavy weapons under international supervision.

35. The cease-fire agreed upon in the Mixed Military Working Group on 10 November 1992 (A/47/747, para. 4) has been twice reaffirmed. However, it has at no time been fully effective in any area of Bosnia and Herzegovina, despite the persistent efforts of the Co-Chairmen and of UNPROFOR in the Working Group. All three parties to the conflict have perpetrated violations of the cease-fire, though it should also be stated that the level of violence has diminished in areas where UNPROFOR personnel have been deployed in support of the delivery of humanitarian aid, which is now reaching most of the country.

36. The Mixed Military Working Group has held 10 meetings in Sarajevo since 15 November 1992. It has concentrated principally on the following matters: freedom of passage, the reopening of blocked routes, the demilitarization of Sarajevo, and the opening of humanitarian corridors. However, few durable results have been achieved - first one party then the other proving obdurate.

ANNEX

Consolidated Constitutional Principles for Bosnia and Herzegovina proposed by the Co-Chairmen of the International Conference on the Former Yugoslavia on 12 January 1993

1. Bosnia and Herzegovina shall be a decentralized State, the Constitution shall recognize three constituent peoples, as well as a group of others, with most governmental functions carried out by its provinces.

2. The provinces shall not have any international legal personality and may not enter into agreements with foreign States or with international organizations.

3. Full freedom of movement shall be allowed throughout Bosnia and Herzegovina, to be ensured in part by the maintenance of internationally controlled throughways.

4. All matters of vital concern to any of the constituent peoples shall be regulated in the Constitution, which as to these points may be amended only by consensus of these constituent peoples; ordinary governmental business is not to be veto-able by any group.

5. The provinces and the central Government shall have democratically elected legislatures and democratically chosen chief executives and an independent judiciary. The Presidency shall be composed of three elected representatives each of the three constituent peoples. The initial elections are to be supervised by the United Nations, the European Community and the Conference on Security and Cooperation in Europe.

6. A Constitutional Court, with a member from each group and a majority of non-Bosnian members initially appointed by the International Conference on the Former Yugoslavia, shall resolve disputes between the central Government and any province, and among organs of the former.

7. Bosnia and Herzegovina is to be progressively delimitarized under United Nations/European Community supervision.

8. The highest level of internationally recognized human rights shall be provided for in the Constitution, which shall also provide for the ensurance of implementation through both domestic and international mechanisms.

9. A number of international monitoring or control devices shall be provided for in the Constitution, to remain in place at least until the three constituent peoples by consensus agree to dispense with them.

Notes

1/ S/25000.

2/ S/25015.

3/ S/25050.

4/ S/25100.

5/ S/25050 and S/25100.

6/ S/25050, annexes V and VI.

7/ S/25052.

8/ S/25080.

9/ S/25079.